

grants for the renovation, modernization or construction of law enforcement facilities.

S. 960

At the request of Mr. KERRY, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 960, a bill to provide for a study on issues relating to access to intravenous immune globulin (IVG) for Medicare beneficiaries in all care settings and a demonstration project to examine the benefits of providing coverage and payment for items and services necessary to administer IVG in the home.

S. 964

At the request of Mr. ALEXANDER, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 964, a bill to amend the National Labor Relations Act to clarify the applicability of such Act with respect to States that have right to work laws in effect.

S. 982

At the request of Ms. AYOTTE, the names of the Senator from Indiana (Mr. COATS) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 982, a bill to reaffirm the authority of the Department of Defense to maintain United States Naval Station, Guantanamo Bay, Cuba, as a location for the detention of unprivileged enemy belligerents held by the Department of Defense, and for other purposes.

S. 983

At the request of Mr. NELSON of Florida, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 983, a bill to amend the Internal Revenue Code of 1986 to disallow a deduction for amounts paid or incurred by a responsible party relating to a discharge of oil.

S. 1006

At the request of Mr. RUBIO, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1006, a bill to allow seniors to file their Federal income tax on a new Form 1040SR.

S. 1009

At the request of Mr. RUBIO, the names of the Senator from Indiana (Mr. COATS), the Senator from Wyoming (Mr. ENZI), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 1009, a bill to rescind certain Federal funds identified by States as unwanted and use the funds to reduce the Federal debt.

S. 1048

At the request of Mr. MENENDEZ, the names of the Senator from New York (Mr. SCHUMER), the Senator from Texas (Mr. CORNYN), the Senator from Louisiana (Mr. VITTER), the Senator from Idaho (Mr. CRAPO) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 1048, a bill to expand sanctions imposed with respect to the Islamic Republic of Iran, North Korea, and Syria, and for other purposes.

S. RES. 185

At the request of Mr. CARDIN, the names of the Senator from Arkansas (Mr. BOOZMAN), the Senator from Kansas (Mr. MORAN), the Senator from Minnesota (Mr. FRANKEN), the Senator from Illinois (Mr. KIRK), the Senator from Maine (Ms. SNOWE), the Senator from Texas (Mr. CORNYN), the Senator from Kansas (Mr. ROBERTS), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. Res. 185, a resolution reaffirming the commitment of the United States to a negotiated settlement of the Israeli-Palestinian conflict through direct Israeli-Palestinian negotiations, reaffirming opposition to the inclusion of Hamas in a unity government unless it is willing to accept peace with Israel and renounce violence, and declaring that Palestinian efforts to gain recognition of a state outside direct negotiations demonstrates absence of a good faith commitment to peace negotiations, and will have implications for continued United States aid.

AMENDMENT NO. 323

At the request of Mr. PAUL, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of amendment No. 323 intended to be proposed to S. 1038, a bill to extend the expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes.

AMENDMENT NO. 330

At the request of Mr. UDALL of Colorado, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of amendment No. 330 intended to be proposed to S. 1038, a bill to extend the expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes.

AMENDMENT NO. 331

At the request of Mr. UDALL of Colorado, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of amendment No. 331 intended to be proposed to S. 1038, a bill to extend the expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes.

AMENDMENT NO. 332

At the request of Mr. UDALL of Colorado, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of amendment No. 332 intended to be proposed to S. 1038, a bill to extend the expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes.

AMENDMENT NO. 334

At the request of Mr. LEAHY, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Oregon (Mr. MERKLEY), the Senator from California (Mrs. BOXER) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of amendment No. 334 intended to be proposed to S. 1038, a bill to extend the expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. BLUMENTHAL, and Mr. WHITEHOUSE):

S. 1054. A bill to address remedies in bankruptcy for negligent, reckless, or fraudulent assertion of claim; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I am pleased to introduce the Fighting Fraud in Bankruptcy Act of 2011. I thank Senator WHITEHOUSE and Senator BLUMENTHAL for joining me as cosponsors of this legislation. This bill will give the Department of Justice and the United States bankruptcy trustee important new tools to combat creditor abuses in the bankruptcy process. The Fighting Fraud in Bankruptcy Act is another step forward in the Judiciary Committee's important efforts to protect American citizens from fraud.

Since the onset of the housing market's collapse, the bankruptcy courts and the United States trustee have encountered serious problems related to foreclosure documentation submitted by mortgage lenders and servicers in the bankruptcy process. As scrutiny has been brought to bear on foreclosure-related filings by bankruptcy judges, attorneys, and the United States trustee, a pattern of negligent, reckless, or fraudulent conduct on the part of mortgage lenders and servicers has been revealed with a consistency that indicates systemic problems.

Under Attorney General Holder's leadership, the Department of Justice is making a considerable effort to ensure that mortgage lenders and servicers are playing by the rules and treating homeowners fairly and honestly. As part of its efforts to more closely scrutinize foreclosure documentation in bankruptcy cases, the United States trustee's office reviewed 10,000 proofs of claim filed by mortgage servicers. What was found was far more serious than what mortgage servicing industry officials have been asserting. For example, in testimony before the Senate Judiciary Committee in 2008, an industry executive stated that the rate of loan servicing errors in bankruptcy cases adverse to a homeowner was "less than one percent."

In its review, however, the trustee found an error rate based upon blatant,

obvious errors more than ten times greater than what was testified to before the Judiciary Committee. And these errors are not harmless. In some cases, they were wildly inaccurate statements of what a homeowner owed to the lender, in others, the claims contained unsupported junk fees that servicers had piled on, yet for which they provided no documentation. If left unchallenged, the result would be that a homeowner not only loses a home, but is cheated on what he or she owes on that home. Americans in foreclosure, and the trustee as guardian of the system are right to demand accuracy and truthfulness from creditors' representations in court.

Unfortunately, the major players in the mortgage industry are showing little interest in addressing these problems head-on. Instead, when faced with the trustee's scrutiny of their claims, some major mortgage servicers have resorted to engaging in litigation challenging the authority of the United States trustee to look behind their claims and provide sanctions where warranted. The United States trustees in districts around the country are now facing hundreds of challenges to their authority to effectively police the system. It is a great disappointment to see some of the very same banking entities that have benefited so much from congressional action and taxpayer funded assistance put up so much resistance to simple demands for accuracy and truthfulness in their representations to the court and those whose homes they are seeking to repossess.

The unfortunate reality is that lenders in many cases will continue to exercise their legal right to foreclose, rather than work with the homeowner to modify a loan. What is entirely unacceptable is for homeowners on the precipice of losing their homes to be mistreated by their lenders—whether through unsupported fees, willfully inaccurate or negligent accounting, or a lack of supporting documentation. This conduct only adds to the pain and hardship so many are experiencing.

In 2010, over one million Americans lost their homes to foreclosure. This year, housing industry analysts expect the problem to get worse. The magnitude of this problem, and its effect on American families, is difficult to comprehend. As this crisis continues to deepen, the incentives for lenders and servicers to cut corners, inflate profits, rush foreclosures, and hide from their misconduct will only increase.

The legislation I introduce today is about ensuring fair treatment for homeowners, preventing a fraud on the bankruptcy courts, and holding wrongdoers accountable. When Congress created the United States trustee program in 1978, it described the trustee's role as the "watchdog" of the bankruptcy system, and vested the trustee's office with the power to investigate fraud in the process. This legislation will support and strengthen this important role so that all participants in the

bankruptcy system conduct themselves in accordance with the law.

My legislation will do four things. First, it clarifies the United States trustee's inherent power and duty to police all corners of the bankruptcy system. Second, it provides the trustee and the courts with remedies to correct and sanction misconduct and fraud committed by creditors in the bankruptcy process. Third, the legislation empowers the trustee to establish a system of audits to ensure that creditors are complying with the law. These provisions taken together will help make certain that debtors and creditors are held to the same standard in the bankruptcy process.

Finally, the legislation addresses a particularly offensive form of mortgage servicer misconduct against men and women serving in our military. The Servicemembers Civil Relief Act (SCRA) protects active duty military personnel by requiring a stable, manageable interest rate for military homeowners on active duty, and by staying foreclosure actions during their deployment. A Government Accountability Office report released this month found that among just two of 14 major mortgage servicing organizations that provided data to Federal regulators, 50 foreclosure actions were carried out in violation of the SCRA.

In response to this finding, and to bolster the SCRA's protections for the men and women serving in the military, this legislation would require a mortgage lender seeking relief from the automatic stay to certify under penalty of perjury that the foreclosure was in compliance with the SCRA.

As Congress looks at ways to mitigate the foreclosure crisis to reduce its impact on homeowners and the economy, I hope all Senators can agree that the foreclosure process for Americans should be a fair one and one in which there is accountability for fraud or other misconduct. And I hope we can all agree that the integrity of our judicial system is something worth protecting.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fighting Fraud in Bankruptcy Act of 2011".

SEC. 2. REMEDIES FOR NEGLIGENT, RECKLESS, OR FRAUDULENT ASSERTION OF CLAIM.

Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“§ 113. Remedies for negligent, reckless, or fraudulent assertion of claim

“(a) In this section—

“(1) a person ‘asserts a claim’ by, without limitation, preparing, signing, filing, submitting, or later advocating a proof of claim under section 501 of this title, a motion seek-

ing relief from the stay imposed under section 362 of this title, or other paper, representing to the court that a claim is owed or that it is owed in a specific amount;

“(2) a person who assists another person in asserting a claim shall also be deemed to have asserted the claim, including—

“(A) any officer, director, employee, or agent of the person asserting a claim; and

“(B) any attorney, accountant, or other professional person who is employed by or is assisting the person asserting a claim; and

“(3) the term ‘relief’ means, without limitation, and in addition to any legal, equitable, monetary or injunctive relief otherwise available under any provision of this title or other provision of law, or under a court's inherent powers—

“(A) an order or judgment imposing upon a person in one or more cases, wherever situated, in which the person has asserted a claim or claims in violation of subsection (b) a civil penalty of not more than \$5,000 for each such claim;

“(B) an order or judgment requiring a person in one or more cases, wherever situated, in which the person has asserted a claim or claims in violation of subsection (b), to pay actual damages to an injured debtor, or trustee; and

“(C) an order or judgment imposing upon a person in one or more cases, wherever situated, in which the person has asserted, or could assert, a claim or claims in violation of subsection (b) of this section, other prospective or retrospective relief, including but not limited to declaratory relief, injunctive relief, or an auditing requirement.

“(b) Notwithstanding any other provision of Federal or State law, and in addition to any other remedy provided under Federal or State law, if a court, on its own motion or on the motion of the United States trustee (or bankruptcy administrator, if any), finds, based upon a preponderance of the evidence, that a person has, through negligence, recklessness, or fraud, improperly asserted a claim in any case under chapter 7 or chapter 13 of this title before the court, the court may—

“(1) enter relief against the person in the case before the court; and

“(2) enter relief against the person in any other case under chapter 7 or chapter 13 that is pending or might thereafter be filed under this title, wherever situated, to the extent the court deems it necessary—

“(A) to rectify the person's negligent, reckless, or fraudulent assertion of a claim; or

“(B) to prevent the person from asserting any negligent, reckless, or fraudulent claim.

“(c)(1) Civil penalties imposed under this section in judicial districts served by United States trustees shall be paid to the United States trustees, who shall deposit an amount equal to such fines in the United States Trustee Fund.

“(2) Civil penalties imposed under this section in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.”.

SEC. 3. DUTY OF THE UNITED STATES TRUSTEE TO ADDRESS CLAIMS.

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (7)(C), by striking “and” at the end;

(2) in paragraph (8), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(9) when the United States trustee deems it appropriate—

“(A) monitor and investigate the conduct of other parties in interest with respect to claims; and

“(B) take action that the United States trustee deems necessary to prevent or remedy any negligent, reckless, or fraudulent assertion of a claim, as defined in section 113(a) of title 11, by exercising any of the United States trustee’s powers and authorities under this title and under title 11 respecting claims, including—

“(i) filing, pursuing, or commenting upon any action brought under section 113 of title 11; and

“(ii) filing, pursuing, or commenting upon any civil action, or upon any civil proceeding arising under title 11, or arising in or related to a case under title 11.”

SEC. 4. PROCEDURES FOR THE AUDITING OF PROOFS OF CLAIM.

(a) TITLE 28.—Section 586 of title 28, United States Code, is amended by adding at the end the following:

“(g)(1) CLAIMS AUDIT PROCEDURES.—

“(A) The Director of the Executive Office for United States Trustees shall establish audit procedures to determine the accuracy, veracity, and completeness of proofs of claim filed under section 501(a) of title 11, with respect to cases filed under chapter 7 or 13 of title 11, in which the debtor is an individual.

“(B) The procedures established pursuant to subparagraph (A) shall—

“(i) establish a method of selecting appropriate qualified persons to contract to perform audits;

“(ii) establish a method of selecting proofs of claim to be audited, except that the number of audits to be performed shall be within the sole discretion of the Director of the Executive Office for United States Trustees; and

“(iii) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits, including the percentage of cases, by district, in which inaccurate, untrue, or incomplete proofs of claim were filed.

“(2) The United States trustee for each district is authorized to contract with auditors to perform audits of proofs of claim designated by the United States trustee, in accordance with the procedures established under paragraph (1). An audit may, in the discretion of the United States trustee, encompass multiple proofs of claim filed by the same entity in one case or multiple cases, whether in the same district or multiple districts. The United States trustees from multiple regions may contract with a single auditor to audit proofs of claim filed by the same entity in districts within their regions.

“(3)(A) The report of each audit performed pursuant to paragraph (2) shall be filed with the court where the case is pending and transmitted to the United States trustee and to any trustee serving in the case. Each such report shall clearly and conspicuously specify any findings that the claim asserted in the proof of claim is—

“(i) not valid;

“(ii) not owed in the amount claimed; or

“(iii) not supported by adequate documentation.

“(B) If a claims audit report identifies deficiencies in the proof of claim as described in paragraph (2)(A), the United States trustee shall—

“(i) if appropriate, report the deficient filing to the United States Attorney pursuant to section 3057 of title 18; and

“(ii) if advisable, take appropriate action, including objecting to the proof of claim under section 502(b) of title 11, or commencing an action under section 113(b) of

title 11, against entities responsible for the deficiencies.”

(b) TITLE 11.—Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking “or” at the end;

(2) in paragraph (9), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(10) the court finds the entity filing a proof of claim that was selected for audit under section 586(g) of title 28 failed to make available to the auditor for inspection necessary accounts, papers, documents, financial records, files, or other papers, that were requested by the auditor.”

SEC. 5. TREATMENT OF SERVICEMEMBERS IN FORECLOSURE.

Section 362(d) of title 11, United States Code, is amended by adding at the end of the undesignated matter following paragraph (4) the following: “In any case under this title involving a servicemember, as defined in section 101 of the Servicemembers Civil Relief Act, to whom section 303 of that Act applies, no action may be taken under this subsection unless the party in interest certifies, under penalty of perjury, that the requirements of section 303 of the Servicemembers Civil Relief Act have been met.”

SEC. 6. EFFECTIVE DATES.

(a) REMEDIES; DUTY TO ADDRESS CLAIMS.—The provisions of section 113 and section 362(d) of title 11, United States Code, and paragraph (9) of section 586(a) of title 28, United States Code, added by this Act, shall become effective with respect to all cases filed or pending under title 11, United States Code, on or after the date of enactment of this Act.

(b) AUDITING OF PROOFS OF CLAIM.—Section 586(g) of title 28, United States Code, as added by this Act, shall become effective 18 months after the date of enactment of this Act for all cases filed or pending on or after that date of enactment, except that the Director of the Executive Office for United States Trustees may, in the sole discretion of the Director, establish an earlier effective date by publishing notice in the Federal Register at least 2 weeks before the proposed effective date.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 196—CALLING UPON THE GOVERNMENT OF TURKEY TO FACILITATE THE REOPENING OF THE ECUMENICAL PATRIARCHATE’S THEOLOGICAL SCHOOL OF HALKI WITHOUT CONDITION OF FURTHER DELAY

Mr. CARDIN (for himself, Ms. SNOWE, Mr. REID of Nevada, Mrs. SHAHEEN, Mr. WHITEHOUSE, and Mr. MENENDEZ) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 196

Whereas the Ecumenical Patriarchate is an institution with a history spanning 17 centuries, serving as the center of the Orthodox Christian Church throughout the world;

Whereas the Ecumenical Patriarchate sits at the crossroads of East and West, offering a unique perspective on the religions and cultures of the world;

Whereas the title of Ecumenical Patriarch was formally accorded to the Archbishop of Constantinople by a synod convened in Constantinople during the sixth century;

Whereas, since November 1991, His All Holiness, Bartholomew I, has served as Archbishop of Constantinople, New Rome and Ecumenical Patriarch;

Whereas Ecumenical Patriarch Bartholomew I was awarded the Congressional Gold Medal in 1997, in recognition of his outstanding and enduring contributions toward religious understanding and peace;

Whereas, during the 110th Congress, 75 Senators and the overwhelming majority of members of the Committee on Foreign Affairs of the House of Representatives wrote to President George W. Bush and the Prime Minister of Turkey to express congressional concern, which continues today, regarding the absence of religious freedom for Ecumenical Patriarch Bartholomew I in the areas of church-controlled Patriarchal succession, the confiscation of the vast majority of Patriarchal properties, recognition of the international Ecumenicity of the Patriarchate, and the reopening of the Theological School of Halki;

Whereas the Theological School of Halki, founded in 1844 and located outside Istanbul, Turkey, served as the principal seminary for the Ecumenical Patriarchate until its forcible closure by the Turkish authorities in 1971;

Whereas the alumni of this preeminent educational institution include numerous prominent Orthodox scholars, theologians, priests, bishops, and patriarchs, including Bartholomew I;

Whereas the Republic of Turkey has been a participating state of the Organization for Security and Cooperation in Europe (OSCE) since signing the Helsinki Final Act in 1975;

Whereas in 1989, the OSCE participating states adopted the Vienna Concluding Document, committing to respect the right of religious communities to provide “training of religious personnel in appropriate institutions”;

Whereas the continued closure of the Ecumenical Patriarchate’s Theological School of Halki has been an ongoing issue of concern for the American people and the United States Congress and has been repeatedly raised by members of the Commission on Security and Cooperation in Europe and by United States delegations to the OSCE’s annual Human Dimension Implementation Meeting;

Whereas, in his address to the Grand National Assembly of Turkey on April 6, 2009, President Barack Obama said, “Freedom of religion and expression lead to a strong and vibrant civil society that only strengthens the state, which is why steps like reopening Halki Seminary will send such an important signal inside Turkey and beyond.”;

Whereas, in a welcomed development, the Prime Minister of Turkey, Recep Tayyip Erdogan, met with the Ecumenical Patriarch on August 15, 2009, and, in an address to a wider gathering of minority religious leaders that day, concluded by stating, “We should not be of those who gather, talk, and disperse. A result should come out of this.”;

Whereas, during his visit to the United States in November 2009, Ecumenical Patriarch Bartholomew I raised the issue of the continued closure of the Theological School of Halki with President Obama, congressional leaders, and others;

Whereas, in a welcome development, for the first time since 1922, the Government of Turkey in August 2010 allowed the liturgical celebration by the Ecumenical Patriarch at the historic Sumela Monastery; and

Whereas, following a unanimous decision by the European Court of Human Rights in Strasbourg in 2010, ruling that Turkey return the former Greek Orphanage on Buyukada Island to the Ecumenical Patriarchate, on the eve of the feast day of St.